

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

GRUBB & ELLIS/CENTENNIAL, INC.)	
)	
)	
v.)	NO. 3:03-0016
)	
GAEDEKE HOLDINGS, LTD,)	
and GAEDEKE LANDERS, LLC)	

ORDER

Pending before the Court are a Report and Recommendation issued by the Magistrate Judge (Docket No. 110), Plaintiffs' Objections to the Report And Recommendation of the Magistrate Judge (Docket No. 111), Defendants' Objections To, and Motion for De Novo Determination by the District Judge of, the Report and Recommendation of the Magistrate Judge (Docket No. 112), and Defendants' Memorandum of Law In Support of Defendants' Objections (Docket No. 113).

In his Report, the Magistrate Judge recommends: (1) that the Plaintiff be awarded \$270,254.46 in commissions; (2) that the Plaintiff be awarded \$49,634.21 in prejudgment interest; (3) that the Plaintiff be awarded \$103,309.50 in attorneys' fees and \$5,944.06 in costs; and (4) that the issue of future commissions is not ripe at this time and that the case should be closed.

Plaintiff raises the following objections to the Report and Recommendation: (1) the award of interest should be considered "mandatory" under Tenn. Code Ann. § 47-14-109(b), rather than "discretionary" under Tenn. Code Ann. § 47-14-123; (2) the award of attorneys' fees should be increased to \$124,834.00; (3) the Court should order the Defendants "to promptly notify Plaintiff of any extension of the term of the lease that is the subject of this action or any

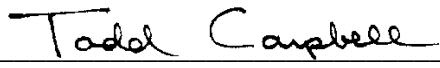
expansion of those leased premises and to provide Plaintiff with copies of the documents signed to carry out such extension or expansion;” and (4) Plaintiff disputes the Magistrate Judge’s suggestion that Defendants’ allegations regarding Plaintiff’s purported breaches of the listing agreement could be the subject of a separate action rather than a bar to Plaintiff’s recovery of commissions.

Defendants generally object to the awarding of any commissions, prejudgment interest, or attorneys’ fees or costs. Defendants specifically argue the following: (1) the commission amount should be limited to \$10,000 under a quantum meruit theory; (2) prejudgment interest should be calculated at a reduced rate under 28 U.S.C. § 1961, and should not accrue until the Sixth Circuit’s decision on appeal in this case; and (3) attorneys’ fees should be limited to \$43,236.89.

The Court has independently reviewed the Magistrate Judge’s findings and conclusions, the objections, and the entire record. The parties’ objections are without merit and are overruled. The Report and Recommendation is ADOPTED and APPROVED.

This Order shall constitute the judgment in this case pursuant to Fed. R. Civ. P. 58.

It is so ORDERED.


TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE